

HOUSE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTY-FIRST LEGISLATURE

TWENTY-THIRD LEGISLATIVE DAY
TUESDAY, JANUARY 31, 2012

House of Representatives

The House convened at 11 a.m., the Speaker in the Chair.

Roll call showed 69 members present.
Absent and excused – Wood(27). Total – 1.
Total – 70.

Prayer was offered by Chaplain Tom Dougherty.

The Pledge of Allegiance was led by Benjamin Ovard, Page.

Approval of Journal

January 31, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Twenty-second Legislative Day and recommend that same be adopted as corrected.

WILLS, Chairman

Mr. Wills moved that the report be adopted. Seconded by Mr. Burgoyne. Report adopted.

Consideration of Messages from the Governor and the Senate

January 30, 2012

Mr. Speaker:

I transmit herewith [S 1237](#) which has passed the Senate.

NOVAK, Secretary

[S 1237](#) was filed for first reading.

January 31, 2012

Mr. Speaker:

I transmit herewith enrolled [S 1224](#) for the signature of the Speaker.

NOVAK, Secretary

The Speaker announced he was about to sign enrolled [S 1224](#) and, when so signed, ordered it returned to the Senate.

Report of Standing Committees

January 31, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have printed [H 437](#) and [H 438](#).

WILLS, Chairman

[H 437](#) and [H 438](#) were referred to the Revenue and Taxation Committee.

January 31, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have enrolled [H 355](#).

WILLS, Chairman

The Speaker announced he was about to sign enrolled [H 355](#) and, when so signed, ordered it transmitted to the Senate for the signature of the President.

January 30, 2012

Mr. Speaker:

We, your COMMITTEE ON TRANSPORTATION AND DEFENSE, report that we have had under consideration [H 367](#), [H 368](#), and [H 369](#) and recommend that they do pass.

PALMER, Chairman

[H 367](#), [H 368](#), and [H 369](#) were filed for second reading.

January 30, 2012

Mr. Speaker:

We, your COMMITTEE ON HEALTH AND WELFARE, report that we have had under consideration [H 388](#) and [H 405](#) and recommend that they do pass.

MCGEACHIN, Chairman

[H 388](#) and [H 405](#) were filed for second reading.

January 31, 2012

Mr. Speaker:

We, your COMMITTEE ON EDUCATION, report that we have had under consideration [H 382](#) and [H 384](#) and recommend that they do pass.

NONINI, Chairman

[H 382](#) and [H 384](#) were filed for second reading.

There being no objection, the House advanced to the Seventh Order of Business.

Motions, Memorials, and Resolutions

HOUSE JOINT MEMORIAL NO. 7 BY STATE AFFAIRS COMMITTEE A JOINT MEMORIAL

TO PRESIDENT BARACK OBAMA, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on May 15, 2005, Idaho native Army Sergeant Chris Tschida and the three crew members of his tank were patrolling route "Michigan" between Ramadi and Fallujah in the Al Anbar Province of Iraq while conducting operations under Operation Iraqi Freedom; and

WHEREAS, Sgt. Tschida, along with his loader, were standing watch in the gun turret, watching for enemy activity while the tank driver and a Lieutenant were inside the tank preparing for a mission later that night. The loader shifted his body and accidentally knocked his water bottle down inside the tank and while lowering himself inside the tank to pick up the water, an insurgent used the opportunity to attack by throwing two enemy grenades inside the tank; and

WHEREAS, Sgt. Tschida could hear the grenades fall in the tank and instantly found one, yelling "grenade!" to his crew members while retrieving one grenade to put into the tank's breach to absorb the blast. In this process, the grenade exploded and amputated Sgt. Tschida's left hand. Moments later the second grenade exploded inside the tank, severely wounding Sgt. Tschida and two of the other crew members; and

WHEREAS, still conscious, Sgt. Tschida began assessing the damage inside the tank, but was unable to see because of the smoke and fire caused by the grenade. Sgt. Tschida attempted to key the microphone on his radio to call for support and report the enemy attack when he noticed his left hand was missing. Sgt. Tschida wrapped the stump of his hand into his shirt and began checking the status of his tank and fellow soldiers. At first glance Sgt. Tschida saw his Lieutenant slumped over and unconscious with his head resting on the .50 caliber sight. The Lieutenant was bleeding heavily from his eye socket and appeared to be dead; and

WHEREAS, Sgt. Tschida then noticed his loader, hanging half-way out of the tank's turret, missing both legs from the knees down. Sgt. Tschida shook his Lieutenant to see if he was alive, at which time the Lieutenant let out a gasp of air that confirmed he was not dead; and

WHEREAS, an evaluation of the tank also confirmed the ammunition bay had been busted open from the grenade blast and the tank ammunition was at risk of catching fire and exploding. Knowing he and his fellow soldiers were not safe inside the tank, Sgt. Tschida pulled himself out of the hatch and then began pulling his loader out of the tank. Once his loader was safely out of the tank, Sgt. Tschida began pulling his Lieutenant out of the commander's hatch of the tank. Once both soldiers were safely out of the tank, Sgt. Tschida began administering first aid by tying a tourniquet on both of the loader's legs and by stuffing a field bandage inside of the eye socket of the Lieutenant to stop the bleeding from his head; and

WHEREAS, while caring for both soldiers, Sgt. Tschida did a security check of his area. At this time an enemy insurgent, believed to be the one who attacked Sgt. Tschida's tank, engaged Sgt. Tschida while he was administering first aid to his fellow soldiers. Sgt. Tschida was able to repel the enemy assault with his M9 service pistol, killing the hostile force; and

WHEREAS, knowing they were in imminent danger, Sgt. Tschida attempted to get the driver of the tank to respond to his commands, but the soldier was in shock and unresponsive. After beating on the hatch and pleading with the driver to respond, the driver opened the driver's hatch and began receiving commands from Sgt. Tschida. At this time, Sgt. Tschida commanded the driver to return them and the tank with its munitions back to the nearest security gate to get help. Sgt. Tschida then shielded both soldiers with his body on the surface of the tank until they arrived at a safe location; and

WHEREAS, all four crew members, including Sgt. Tschida, survived the injuries they sustained on May 15, 2005, and the tank was returned and repaired for future use. To this day, Sgt. Chris Tschida has not received recognition or accolades for his heroism and steadfast leadership on May 15, 2005.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge President Barack Obama, in the name of Congress, to award Retired Sergeant Chris Tschida the Medal of Honor for distinguishing himself through conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty, or the highest appropriate recognition.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and

directed to forward a copy of this Memorial to President Barack Obama, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

HOUSE JOINT MEMORIAL NO. 8 BY EDUCATION COMMITTEE A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES
OF THE UNITED STATES IN CONGRESS ASSEMBLED,
AND TO THE CONGRESSIONAL DELEGATION
REPRESENTING THE STATE OF IDAHO IN THE
CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, putting our children first is both an economic imperative and a moral necessity, and a strong education system is vital to a strong economy; and

WHEREAS, public education is clearly an area left to the states under the Tenth Amendment to the United States Constitution; and

WHEREAS, the federal No Child Left Behind law requires unrealistic expectations as nearly one-half of the public schools in the United States did not meet federal achievement standards in 2011, including eighty-nine percent of Florida's public schools; and

WHEREAS, the federal No Child Left Behind law constricts the definition of education into a narrow test-based approach where repetition and memorization are more important than application, and it discourages creativity by students and teachers; and

WHEREAS, the federal No Child Left Behind law's emphasis on math and reading means less attention for other very important subjects such as history, art, music, vocational education and physical education; and

WHEREAS, the federal No Child Left Behind law is insufficiently funded to bring about its intended effect and it has imposed what is essentially an unfunded educational mandate on the states; and

WHEREAS, the ongoing recession has forced the State of Idaho to make difficult decisions regarding the funding of public education and these decisions have resulted in larger class sizes, layoffs of educational staff, curtailment of extracurricular activities and school sponsored programs and a shorter school year; and

WHEREAS, economic recovery and development depend upon an educated workforce that possesses the skills that are necessary to handle the jobs of the 21st century; the State of Idaho cannot achieve and maintain prosperity if it does not properly fund secondary and post-secondary education; and Republicans and Democrats agree that burdensome regulations prevent our schools, our teachers and our students from achieving their potential.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Congress of the United States of America is respectfully urged to repeal the No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425).

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of

Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

[HJM 7](#) and [HJM 8](#) were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

**Introduction, First Reading, and Reference
of Bills and Joint Resolutions**

**HOUSE BILL NO. 439
BY HEALTH AND WELFARE COMMITTEE**

AN ACT

RELATING TO DISPENSING OF CONTROLLED SUBSTANCES PRESCRIPTIONS; AMENDING SECTION 37-2726, IDAHO CODE, TO CLARIFY THAT PRACTITIONERS AND PHARMACISTS LICENSED BY STATES OTHER THAN IDAHO MAY ACCESS THE CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE FOR TREATMENT PURPOSES, TO REVISE THE PENALTY FOR IMPROPER ACCESSING OR USE OF INFORMATION IN THE CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE FROM A MISDEMEANOR TO A FELONY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 37-2730A, IDAHO CODE, TO CLARIFY THAT THE BOARD MAY PROVIDE UNSOLICITED REPORTS TO PHARMACISTS AND PRACTITIONERS.

**HOUSE BILL NO. 440
BY HEALTH AND WELFARE COMMITTEE**

AN ACT

RELATING TO INSURANCE FUNDING; AMENDING SECTION 41-406, IDAHO CODE, TO REVISE A PROVISION AUTHORIZING AVAILABLE FUNDING TO BE USED TO COVER PROGRAM EXPENDITURES; AND DECLARING AN EMERGENCY.

**HOUSE BILL NO. 441
BY HEALTH AND WELFARE COMMITTEE**

AN ACT

RELATING TO HEALTH CARE FOR INDIGENT PERSONS; AMENDING SECTION 31-3503, IDAHO CODE, TO AUTHORIZE COUNTY COMMISSIONERS TO PAY FOR AUTHORIZED EXPENSES TO MANAGE HEALTH CARE COSTS FOR INDIGENT PERSONS; AMENDING SECTION 31-3503A, IDAHO CODE, TO AUTHORIZE THE BOARD OF THE CATASTROPHIC HEALTH CARE COST PROGRAM TO PAY FOR AUTHORIZED EXPENSES TO MANAGE HEALTH CARE COSTS FOR INDIGENT PERSONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

**HOUSE BILL NO. 442
BY HEALTH AND WELFARE COMMITTEE**

AN ACT

RELATING TO NURSING HOME ADMINISTRATORS-IN-TRAINING; AMENDING SECTION 54-1610, IDAHO CODE, TO PROVIDE FOR AN APPLICANT TO BEGIN TRAINING PRIOR TO COMPLETION OF A BACCALAUREATE DEGREE.

**HOUSE BILL NO. 443
BY STATE AFFAIRS COMMITTEE**

AN ACT

RELATING TO FLAGS; AMENDING SECTION 67-2303, IDAHO CODE, TO REVISE PROVISIONS RELATING TO

THE LOCATION AND DISPLAY OF POW/MIA FLAGS; AND AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2303A, IDAHO CODE, TO AUTHORIZE THE DIVISION OF VETERANS SERVICES TO PROMULGATE RULES DIRECTING THE PROPER PROTOCOL FOR THE LOCATION AND DISPLAY OF FLAGS FLOWN ON STATE PROPERTY.

**HOUSE BILL NO. 444
BY STATE AFFAIRS COMMITTEE**

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1342, IDAHO CODE, TO REVISE PROVISIONS RELATING TO COMPUTATION OF CERTAIN SERVICE RETIREMENT ALLOWANCES AS THEY RELATE TO THE IDAHO LEGISLATURE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 59-1346, IDAHO CODE, TO REVISE PROVISIONS RELATING TO COMPUTATION OF CERTAIN EARLY RETIREMENT ALLOWANCES AS THEY RELATE TO THE IDAHO LEGISLATURE.

**HOUSE BILL NO. 445
BY STATE AFFAIRS COMMITTEE**

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO REVISE THE DEFINITION OF "EMPLOYEE" AND TO REVISE PROVISIONS RELATING TO THOSE THAT DO NOT MEET THE DEFINITION OF "EMPLOYEE"; AND DECLARING AN EMERGENCY.

[H 439](#), [H 440](#), [H 441](#), [H 442](#), [H 443](#), [H 444](#), and [H 445](#) were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

[S 1237](#), by Education Committee, was introduced, read the first time by title, and referred to the Education Committee.

There being no objection, the House advanced to the Tenth Order of Business.

Second Reading of Bills and Joint Resolutions

[H 417](#), by Revenue and Taxation Committee, was read the second time by title and filed for third reading.

Third Reading of Bills and Joint Resolutions

Mr. Moyle asked unanimous consent that all bills on the Third Reading Calendar retain their places for one legislative day. There being no objection, it was so ordered.

There being no objection, the House advanced to the Sixteenth Order of Business.

Adjournment

Mr. Moyle moved that the House adjourn until 11 a.m., Wednesday, February 1, 2012. Seconded by Mr. Rusche. Motion carried.

Whereupon the Speaker declared the House adjourned at 11:14 a.m.

LAWRENCE DENNEY, Speaker

ATTEST:

BONNIE ALEXANDER, Chief Clerk